

DMB:DD:slg

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

PAUL TURPIN, :
Petitioner :
v. : Civil No. 1:CV-01-0168
(Judge Rambo)
IMMIGRATION AND NATURALIZATION, :
SERVICE :
Respondent :

BRIEF IN SUPPORT OF
RESPONDENT'S NUNC PRO TUNC MOTION FOR LEAVE TO FILE
A RESPONSE IN EXCESS OF FIFTEEN PAGES

Respondent has requested the Court nunc pro tunc to permit it to exceed the fifteen-page limit as provided in M.D. Pa. Local Rule 83.32.5 in filing its response to the Court's show cause Order issued on February 7, 2001. The reasons for this motion are as follows:

1. Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 on January 18, 2001, in the United States District Court for the Southern District of New York. On the same date the case was transferred to the Middle District of Pennsylvania and filed on January 26, 2001.

2. The petition presents a challenge to: 1) the denial of bond in violation of his due process rights; 2) the constitutionality of the Illegal Immigration and Immigrant Responsibility Act (IIRIRA); and, 3) Petitioner's alleged entitlement to 212(c) and 212(h) relief.

FILED
HARRISBURG, PA

FEB 27 2001

MARY E. D'ANDREA, CLERK
Per [Signature]

3-1-01
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3. It is Respondent's belief that Petitioner is not entitled to bond and that Petitioner is appropriately detained by the Immigration and Naturalization Service. However, because on December 21, 2000 new regulations went into effect which now govern Turpin's detention, addressing Turpin's claim will require extensive discussion of these new regulations.

4. Also, Turpin makes a novel claim in this Court--whether § 212(h) of the Immigration and Nationality Act as amended violates equal protection. Addressing this issue, also requires extensive analysis.

5. Accordingly, because of the various legal claims and defenses and the need to address all of the underlying facts relevant to each of the claims, it was not be possible to address each of Petitioner's allegations and Respondent's defenses to them in a fifteen-page brief.

6. Respondent submits that its response will be no longer than thirty-one pages in length, and likely less.

7. Petitioner will not be prejudiced in granting this motion; indeed, granting this motion should assist Petitioner in understanding all of Respondent's defenses.

8. Respondent was unable to previously anticipate the need for filing the instant motion, as the Immigration and Naturalization Service legal counsel only yesterday forwarded final documentation necessary to provide a response.

Wherefore, respondent requests this Court to grant its nunc pro tunc request for leave to file the response to the show cause Order in excess of the fifteen-page limit.

Respectfully submitted,

DAVID M. BARASCH
United States Attorney



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Dated: February 27, 2001

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers.

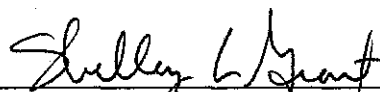
That on February 27, 2001, she served a copy of

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by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Harrisburg, Pennsylvania.

Addressee:

Paul Turpin
A No. 12-355-636
Pike County Jail
H.C. 8 Box 8601
Hawley, PA 18428


SHELLEY L. GRANT
Paralegal Specialist